IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

RP.No. 572 of 2007()

AGAINST THE JUDGEMENT DATED 14/06/2006IN INSURANCE APPEAL 39/2003

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: REVIEW PETITIONER/RESPONDENT

REGIONAL DIRECTOR,
E.S.I. CORPORATION, PANCHADEEP BHAVAN,
THRISSUR-20.

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENTS: APPELLANT

M/S.UNITED TOURS & TRAVELS (CALICUT)
PVT. LTD., DOOR NO.1673/19 KIS COMPLEX,
OPPOSITE TAGORE CENTENARY HALL,
R.C.ROAD, CALICUT, REPRESENTED BY ITS
EXECUTIVE DIRECTOR.

BY ADV. SRI.A.M.SHAFFIQUE
SMT.PRIYA KRISHNAMOORTHY
SMT.PRIYA MANJOORAN
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

R. P. NO. 572 OF 2007
in
Ins. Appeal No. 39 of 2003

Dated, this the 7th day of November, 2007

O R D E R

Admitted. Adv. Shri.A.M.Saffique takes notice for the respondent-appellant. The review petition itself is heard.

2. The grievance of the review petitioner is that though this Court had dismissed the appeal relying on a ground not raised before the E.I.Court, this Court had made observation regarding the question of limitation. On a reading of the impugned order passed by the E.I.Court shows that question of limitation was not raised before the E.I.Court. It is true that a ground of limitation is raised in the appeal memorandum. This Court relying on the Full Bench decision of this Court in **E.S.I Corporation** Vs. **Excell Glasses Ltd.** (2003 (3) KLT 42) held that the Corporation can make a claim for a period of 5 years alone. The learned counsel for the review petitioner has argued that he had filed a statement before this Court stating that correctness of the decision rendered by Full Bench of this Court in **E.S.I Corporation** Vs.**Excell Glasses Ltd.** (2003 (3) KLT 42) was pending before the Supreme Court. This

court dismissed the appeal with an observation that the ESI Corporation is not entitled to recover the amount beyond the period of five years. The principle laid down in Excell Glasses's case was reversed subsequently. Further in view of the findings, this Court ought to have modified the order. So that that point requires to be heard again. So the review petition is allowed to the limited extent of reviewing the order passed by this Court to the effect that the findings of this Court that the ESI Corporation must confine its claim for a period of 5 years. The judgment is reviewed to that limited extent and post the appeal for re-hearing on that point alone.

(K.PADMANABHAN NAIR, JUDGE)

jg